

United States District Court
Eastern District of California

Frank K. Berry,

Petitioner,

vs.

Stuart J. Ryan, et al.,

Respondents.

No. Civ. S 05-0899 FCD PAN P

Order

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Petitioner, a state prisoner proceeding without counsel, applied for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 and requested leave to proceed in forma pauperis.

Examination of the in forma pauperis affidavit reveals petitioner is unable to afford the costs of suit. Leave to proceed in forma pauperis is granted. See 28 U.S.C. § 1915(a).

A judge "entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing

1 the respondent to show cause why the writ should not be granted,
2 unless it appears from the application that the applicant or
3 person detained is not entitled thereto." 28 U.S.C. § 2243.
4 Petitioner may be entitled to relief.

5 I therefore grant petitioner's request to proceed in forma
6 pauperis and direct respondent to respond to petitioner's
7 application within 60 days. See Rule 4, Fed. R. Governing § 2254
8 Cases. An answer shall be accompanied by any and all transcripts
9 or other documents relevant to the determination of the issues
10 presented in the application. See Rule 5, Fed. R. Governing §
11 2254 Cases. Petitioner's reply, if any, shall be filed and
12 served within 30 days of service of an answer. If the response
13 to petitioner's application is a motion, petitioner's opposition
14 or statement of non-opposition shall be filed and served within
15 30 days of service of the motion, and respondent's reply, if any,
16 shall be filed within 15 days thereafter. The Clerk of the Court
17 shall serve a copy of this order together with a copy of
18 petitioner's May 9, 2005, petition for a writ of habeas corpus
19 pursuant to 28 U.S.C. § 2254 on Jo Graves, Attorney General for
20 the State of California.

21 Dated: May 12, 2005.

22 /s/ Peter A. Nowinski
23 PETER A. NOWINSKI
24 Magistrate Judge
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